

1 Randal R. Leonard, Esq.
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4 Las Vegas, NV 89101
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6 *Attorney for Debtor*

7
8 **UNITED STATES BANKRUPTCY COURT**

9 **DISTRICT OF NEVADA**

10 In re: Case No.: BK-S-09-22361-BAM
11 Chapter 13

12 SPYROS D. KOUNTANIS

13 Debtor(s).

14 **OPPOSITION TO MOTION FOR RELIEF
15 FROM AUTOMATIC STAY**

16 Hearing Date: November 3, 2009
17 Hearing Time: 1:30 p.m.

18 COMES NOW Debtor(s), Spyros D. Kountanis by and through counsel, Randal R.
19 Leonard, Esq., and hereby opposes creditor U.S. Bank, National Association's (U.S. Bank)
20 Motion for Relief from Automatic Stay. This Opposition is based upon the pleadings and papers
21 in file herein and the Memorandum of Points and Authorities attached hereto.

22 Dated this 22nd day of October, 2009.

23 /s/ Randal R. Leonard
24 Randal R. Leonard, Esq.
25 Nevada Bar No. 006716
509 South Seventh Street
Las Vegas, NV 89101
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Attorney for Debtor

MEMORANDUM OF POINTS AND AUTHORITIES

Creditor U.S. Bank claims that Debtors are behind post-petition on their Note obligations secured by a Lien against the property commonly known as 9345 Thunder Basin A, Las Vegas, Nevada, 89149.

Debtor disputes Creditor's claims as to debtor's intentions, the amount debtor owes, late charges, attorney's fees, and costs. Nevertheless, should the claims prove true, Debtor requests that the Court enter an Adequate Protection Order based upon the following:

1. That the Debtor commences the regular monthly mortgage payments.
2. That the Debtor cures the monthly payment arrears over a six month period in equal installments.
3. That the Debtor be given a 15-day default letter should the Debtor default in payments.
4. Reasonable attorney's fees and costs.

11 U.S.C. § 362(d) governs motions to lift the automatic stay. It states that the stay shall not lift unless the party requesting relief can show (1) cause including a lack of adequate protection or (2) that the property involved does not have equity and the property is not necessary for an effective reorganization.

In this matter, the APO should protect the Creditor. Therefore, Debtors submit that the stay should not lift at this time.

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1 In the alternative, should the claims prove true, Debtor further requests that if the
2 Creditor has already commenced foreclosure proceedings against Debtor's property by filing a
3 Notice of Default or Notice of Breach with the County Recorder, that the Creditor be required to
4 initiate the foreclosure process again by filing the Notice of Default or Notice of Breach anew.

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6 Dated this 22nd day of October, 2009.

7 /s/ Randal R. Leonard
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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of October, 2009 I sent via electronic means and first class mail, postage pre-paid, the foregoing **OPPOSITION TO MOTION FOR RELIEF FROM STAY** to the following:

via electronic means:

courtsecf3@las13.com
Kathleen Leavitt
Chapter 13 Trustee

bk@wildelaw.com
Gregory Wilde, Esq.
Attorney for Secured Creditor US Bank, N.A.

mbergstrom@mileslegal.com
Jeremy T. Bergstrom, Esq.
per BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing, LP's Request for Special Notice through their Counsel Jeremy T. Bergstrom, Esq. (Ref: Docket Document #19)

jsallade@brooksbauser.com
Michael R. Brooks, Esq.
Attorney for Secured Creditor Suntrust Mortgage, Inc.

claims@recoverycorp.com
Attn: Ramesh Singh
Per Recovery Management Systems Corporation's Request for Special Service (Ref: Docket Document #20)

/s/ Randal R. Leonard

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